

TITLE 5. CORRECTIONS**CHAPTER 4. BOARD OF EXECUTIVE CLEMENCY**(Authority: A.R.S. § 31-401 *et seq.*)

Article 1 through Article 7 consisting of Sections R5-4-101 through R5-4-705 adopted effective June 26, 1980.

Former Article 1 consisting of Sections R5-4-01, R5-4-03 through R5-4-09 repealed effective June 26, 1980.

ARTICLE 1. GENERAL PROVISIONS

Section

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| R5-4-101. | Definitions |
| R5-4-102. | Public Comment at Board Hearings |
| R5-4-103. | Repealed |
| R5-4-104. | Repealed |
| R5-4-105. | Repealed |
| R5-4-106. | Repealed |
| R5-4-107. | Repealed |
| R5-4-108. | Repealed |
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ARTICLE 2. EXECUTIVE CLEMENCY ACTIONS

Article 2, consisting of Section R5-4-201, adopted effective September 22, 1997 (Supp. 97-3).

Article 2, consisting of Sections R5-4-201 and R5-4-202, repealed effective May 31, 1991 (Supp. 91-2).

Section

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| R5-4-201. | Pardons |
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ARTICLE 3. REVOCATION

Article 3, consisting of Sections R5-4-301 and R5-4-302, adopted effective September 22, 1997 (Supp. 97-3).

Article 3, consisting of Sections R5-4-301 thru R5-4-306, repealed effective May 31, 1991 (Supp. 91-2).

Section

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| R5-4-301. | Rescission Hearings |
| R5-4-302. | Revocation Hearings |

ARTICLE 4. REPEALED

Article 4, consisting of Sections R5-4-401 thru R5-4-404, repealed effective May 31, 1991 (Supp. 91-2).

ARTICLE 5. REPEALED

Article 5, Section R5-4-501 repealed effective May 31, 1991 (Supp. 91-2); Sections R5-4-502 and R5-4-503 repealed effective September 22, 1997 (Supp. 97-3).

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| R5-4-501. | Repealed |
| R5-4-502. | Repealed |
| R5-4-503. | Repealed |

ARTICLE 6. REPEALED

Article 6, consisting of Sections R5-4-601 thru R5-4-603, repealed effective September 22, 1997 (Supp. 97-3).

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| R5-4-601. | Repealed |
| R5-4-602. | Repealed |
| R5-4-603. | Repealed |

ARTICLE 7. REPEALED

Article 7, Sections R5-4-701 thru R5-4-704 repealed effective May 31, 1991 (Supp. 91-2); Section R5-4-705 repealed effective September 22, 1997 (Supp. 97-3).

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| R5-4-701. | Repealed |
| R5-4-702. | Repealed |

R5-4-703. Repealed

R5-4-704. Repealed

R5-4-705. Repealed

ARTICLE 8. REPEALED

Article 8, Sections R5-4-801 thru R5-4-806 repealed effective May 31, 1991 (Supp. 91-2); Section R5-4-807 repealed effective September 22, 1997 (Supp. 97-3).

Article 8 consisting of Sections R5-4-801 through R5-4-807 adopted effective October 17, 1984.

Former Article 8 consisting of Sections R5-4-801 through R5-4-808 adopted as an emergency effective June 29, 1984, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 84-5).

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| R5-4-801. | Repealed |
| R5-4-802. | Repealed |
| R5-4-803. | Repealed |
| R5-4-804. | Repealed |
| R5-4-805. | Repealed |
| R5-4-806. | Repealed |
| R5-4-807. | Repealed |

ARTICLE 1. GENERAL PROVISIONS**R5-4-101. Definitions**

In this Chapter, unless otherwise specified:

1. "Applicant" means an individual who asks the governor to grant a pardon.
2. "Board" means the Arizona Board of Executive Clemency (formerly the Arizona Board of Pardons and Paroles).
3. "Department" means the Arizona Department of Corrections.
4. "Inmate" means an individual who is in the custody or under the jurisdiction of the Department, including an individual on parole, home arrest, work furlough, or community supervision.
5. "Pardon" means an action by the governor that absolves an applicant of the legal consequences of the crime for which the applicant was convicted.
6. "Presiding Officer" means either the Chairperson of the Board or the Chairperson of a Board panel assigned to conduct a hearing.
7. "Rescission" means to void a release decision that was previously granted by the Board.
8. "Request to rescind" means a document asking the Board to void a decision to grant an inmate a release.
9. "Revocation" means an act by the Board to terminate an inmate's release status.
10. "Street time" means from the time an inmate accepts parole until the time parole is revoked or completed.
11. "Warrant" means a document of written allegations issued by the Department, initiated by the Department or Board or any member of the Board on an inmate who is alleged to have violated a condition or conditions of release.
12. "Work day" means Monday through Friday of each week except federal and state holidays.

Historical Note

Adopted effective June 26, 1980 (Supp. 80-3). Repealed effective May 31, 1991 (Supp. 91-2). New Section adopted effective September 22, 1997 (Supp. 97-3).

R5-4-102. Public Comment at Board Hearings

During any hearing conducted by the Board, the Presiding Officer may allow any person to provide oral or written information relevant to the hearing.

Historical Note

Adopted effective June 26, 1980 (Supp. 80-3). Section repealed, new Section adopted effective September 22, 1997 (Supp. 97-3).

R5-4-103. Repealed**Historical Note**

Adopted effective June 26, 1980 (Supp. 80-3). Repealed effective May 31, 1991 (Supp. 91-2).

R5-4-104. Repealed**Historical Note**

Adopted effective June 26, 1980 (Supp. 80-3). Repealed effective May 31, 1991 (Supp. 91-2).

R5-4-105. Repealed**Historical Note**

Adopted effective June 26, 1980 (Supp. 80-3). Repealed effective May 31, 1991 (Supp. 91-2).

R5-4-106. Repealed**Historical Note**

Adopted effective June 26, 1980 (Supp. 80-3). Repealed effective May 31, 1991 (Supp. 91-2).

R5-4-107. Repealed**Historical Note**

Adopted effective June 26, 1980 (Supp. 80-3). Repealed effective May 31, 1991 (Supp. 91-2).

R5-4-108. Repealed**Historical Note**

Adopted effective June 26, 1980 (Supp. 80-3). Repealed effective May 31, 1991 (Supp. 91-2).

R5-4-109. Repealed**Historical Note**

Adopted effective June 26, 1980 (Supp. 80-3). Repealed effective May 31, 1991 (Supp. 91-2).

ARTICLE 2. EXECUTIVE CLEMENCY ACTIONS**R5-4-201. Pardon**

- A.** Unless prohibited by law, an individual who has been convicted of a felony offense in Arizona may apply for a pardon if the judgment of guilt or conviction has not been vacated or set aside by a court.
- B.** To request a pardon, an individual who is not an inmate shall submit to the Board a completed pardon application obtained from the Board. The Board, at its discretion, may require the applicant to submit additional information and documents.
- C.** To request a pardon, an inmate shall submit to the Department a completed pardon application obtained from the Board. The Department shall review the application and verify whether the inmate is eligible to apply for a pardon. The Board, at its discretion, may require the applicant to submit additional information and documents.
- D.** After an eligible applicant has completed all application requirements, the Board shall schedule a hearing and notify the applicant in writing of the date and time of the hearing.
- E.** At the hearing, the Board shall take 1 of the following actions:
 1. Vote to deny the request for a pardon and notify the applicant in writing of the Board's decision within 10 work

days. The applicant is not eligible to re-apply for a pardon for 3 years from the date that the pardon is denied.

2. Vote to recommend to the Governor that a pardon be granted and notify the applicant in writing of the Board's decision within 10 work days.
- F.** If the Board votes to recommend a pardon, Board members who voted in the affirmative shall prepare and send to the governor a letter of recommendation, including reasons for the Board's recommendation. Letters of dissent may be prepared by the dissenting Board members and sent to the governor.
- G.** If the Board's recommendation is denied by the governor, the applicant shall be notified in writing by the Board when the decision is known. The applicant is not eligible to re-apply for a pardon for 3 years from the date that the pardon is denied.

Historical Note

Former Section R5-4-201 repealed effective May 31, 1991 (Supp. 91-2). New Section adopted effective September 22, 1997 (Supp. 97-3).

ARTICLE 3. REVOCATION**R5-4-301. Rescission Hearings**

- A.** To initiate the rescission process, the Department, the Board, or any member of the Board shall submit a request to rescind to the Board. A request to rescind may be submitted for:
 1. Alleged violation of law by the inmate,
 2. Alleged violation of discipline rules of the Department by the inmate,
 3. Alleged inability of the inmate to meet a condition of release, or
 4. The lack of accurate or complete information available to the Board when the release decision was granted.
- B.** After the Board has a completed request to rescind that includes a list of all documents, items of evidence to be submitted, and witnesses who will be called to testify, the board shall schedule a rescission hearing and shall provide timely notice of the rescission hearing to the inmate and the Department.
- C.** The rescission hearing shall be conducted by the Board. Before the start of the rescission hearing, the inmate may request that the hearing be continued for good cause. If the board finds that good cause exists, the board shall grant the request for continuance. Good cause includes but is not limited to:
 1. The inmate wants to obtain legal representation;
 2. The inmate did not receive timely notification of the hearing; and
 3. The inmate lacked opportunity to question adverse witnesses, supportive witnesses, or the parole officer or Department officer who initiated the request to rescind.
- D.** At the close of the rescission hearing, the Board shall take 1 of the following actions:
 1. Find that the allegations in the request to rescind are not true and dismiss the request to rescind. The Board's previous decision to grant release to the inmate will stand.
 2. Find that 1 or more of the allegations in the request to rescind are true and void the Board's previous decision to grant release to the inmate. The inmate shall be held in the custody of the Department as provided by law.
 3. Find that 1 or more of the allegations in the request to rescind are true, however, allow the Board's previous decision to grant release to the inmate to stand.

Historical Note

Former Section R5-4-301 repealed effective May 31, 1991 (Supp. 91-2). New Section adopted effective September 22, 1997 (Supp. 97-3).

R5-4-302. Revocation Hearings

- A. To initiate the revocation process, the Department, the Board, or any member of the Board shall request that the Department issue a warrant alleging that an inmate violated a condition of release.
- B. After the Department submits a warrant that provides to the Board a list of all documents, items of evidence to be submitted, and witnesses who will be called to testify, the Board shall schedule a revocation hearing and shall provide timely notice of the revocation hearing to the inmate and the Department.
- C. The revocation hearing shall be conducted by the Board. Before the start of a revocation hearing, the inmate may request that the hearing be continued for good cause. If the Board finds that good cause exists, the Board shall grant the request for continuance. Good cause includes but is not limited to:
 1. The inmate wants to obtain legal representation;
 2. The inmate did not receive timely notification of the hearing; and
 3. The inmate lacked opportunity to question adverse witnesses, supportive witnesses, or the parole officer who initiated the warrant of arrest.
- D. At the close of the revocation hearing, the Board shall take 1 of the following actions:
 1. Find that the allegations in the warrant are not true and direct, in writing, to the Department that the inmate be returned to parole, home arrest, work furlough, or community supervision status.
 2. In the case of an inmate on parole, find that 1 or more of the allegations in the warrant are true and revoke the inmate's release status but place the inmate on home arrest. The inmate shall be held by the Department pending release on home arrest.
 3. In the case of an inmate on parole, work furlough, home arrest, or community supervision, find that 1 or more of the allegations in the warrant are true but reinstate the inmate's release status with or without additional conditions.
 4. In the case of an inmate on parole, work furlough, home arrest, or community supervision, find that the allegations in the warrant are true and direct that the inmate's release status be revoked. The inmate shall revert immediately to secure custody and be held by the Department in that status as provided by law.
- E. If an inmate's parole status is revoked, the Board may require the forfeiture of some or all street time credits earned by the inmate while on release.

Historical Note

Former Section R5-4-302 repealed effective May 31, 1991 (Supp. 91-2). New Section adopted effective September 22, 1997 (Supp. 97-3).

R5-4-303. Repealed**Historical Note**

Former Section R5-4-303 repealed effective May 31, 1991 (Supp. 91-2).

R5-4-304. Repealed**Historical Note**

Former Section R5-4-304 repealed effective May 31, 1991 (Supp. 91-2).

R5-4-305. Repealed**Historical Note**

Former Section R5-4-305 repealed effective May 31, 1991 (Supp. 91-2).

R5-4-306. Repealed**Historical Note**

Former Section R5-4-306 repealed effective May 31, 1991 (Supp. 91-2).

ARTICLE 4. REPEALED

Article 4, consisting of Sections R5-4-401 thru R5-4-404, repealed effective May 31, 1991 (Supp. 91-2).

ARTICLE 5. REPEALED**R5-4-501. Repealed****Historical Note**

Adopted effective June 26, 1980 (Supp. 80-3). Repealed effective May 31, 1991 (Supp. 91-2).

R5-4-502. Repealed**Historical Note**

Adopted effective June 26, 1980 (Supp. 80-3). Repealed effective September 22, 1997 (Supp. 97-3).

R5-4-503. Repealed**Historical Note**

Adopted effective June 26, 1980 (Supp. 80-3). Repealed effective September 22, 1997 (Supp. 97-3).

ARTICLE 6. REPEALED**R5-4-601. Repealed****Historical Note**

Adopted effective June 26, 1980 (Supp. 80-3). Repealed effective September 22, 1997 (Supp. 97-3).

R5-4-602. Repealed**Historical Note**

Adopted effective June 26, 1980 (Supp. 80-3). Repealed effective September 22, 1997 (Supp. 97-3).

R5-4-603. Repealed**Historical Note**

Adopted effective June 26, 1980 (Supp. 80-3). Repealed effective September 22, 1997 (Supp. 97-3).

ARTICLE 7. REPEALED**R5-4-701. Repealed****Historical Note**

Adopted effective June 26, 1980 (Supp. 80-3). Repealed effective May 31, 1991 (Supp. 91-2).

R5-4-702. Repealed**Historical Note**

Adopted effective June 26, 1980 (Supp. 80-3). Repealed effective May 31, 1991 (Supp. 91-2).

R5-4-703. Repealed**Historical Note**

Adopted effective June 26, 1980 (Supp. 80-3). Repealed effective May 31, 1991 (Supp. 91-2).

R5-4-704. Repealed**Historical Note**

Adopted effective June 26, 1980 (Supp. 80-3). Repealed effective May 31, 1991 (Supp. 91-2).

R5-4-705. Repealed**Historical Note**

Adopted effective June 26, 1980 (Supp. 80-3). Repealed effective September 22, 1997 (Supp. 97-3).

ARTICLE 8. REPEALED**R5-4-801. Repealed****Historical Note**

Adopted as an emergency effective June 29, 1984, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 84-3). Emergency expired. Permanent rule adopted effective October 17, 1984 (Supp. 84-5). Repealed effective May 31, 1991 (Supp. 91-2).

R5-4-802. Repealed**Historical Note**

Adopted as an emergency effective June 29, 1984, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 84-3). Emergency expired. Permanent rule adopted effective October 17, 1984 (Supp. 84-5). Repealed effective May 31, 1991 (Supp. 91-2).

R5-4-803. Repealed**Historical Note**

Adopted as an emergency effective June 29, 1984, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 84-3). Emergency expired. Permanent rule adopted effective October 17, 1984 (Supp. 84-5). Repealed effective May 31, 1991 (Supp. 91-2).

R5-4-804. Repealed**Historical Note**

Adopted as an emergency effective June 29, 1984, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 84-3). Emergency expired. Permanent rule adopted effective October 17, 1984 (Supp. 84-5). Repealed effective May 31, 1991 (Supp. 91-2).

R5-4-805. Repealed**Historical Note**

Adopted as an emergency effective June 29, 1984, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 84-3). Emergency expired. Permanent rule adopted effective October 17, 1984 (Supp. 84-5). Repealed effective May 31, 1991 (Supp. 91-2).

R5-4-806. Repealed**Historical Note**

Adopted as an emergency effective June 29, 1984, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 84-3). Emergency expired. Permanent rule adopted effective October 17, 1984 (Supp. 84-5). Repealed effective May 31, 1991 (Supp. 91-2).

R5-4-807. Repealed**Historical Note**

Adopted as an emergency effective June 29, 1984, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 84-3). Emergency expired. Permanent rule adopted effective October 17, 1984 (Supp. 84-5). Repealed effective September 22, 1997 (Supp. 97-3).